



MAYOR AND COUNCIL AGENDA

NO. /8 DEPT.: Legal/ Community Planning and Development Services DATE: Sept. 22, 2004

Contact: Deane Mellander, Planner III

ACTION: Adoption of Ordinance to grant text amendment TXT2004-00209, Miller, Miller and Canby, applicants.

To amend the Zoning Ordinance to allow an accessory swimming pool in a multi-family development to extend memberships to residents of single-family dwellings if originally approved by special exception;

ACTION STATUS:

FOR THE MEETING OF: 10/4/04

INTRODUCED

PUB. HEARING 7/19/04

INSTRUCTIONS 8/2/04

APPROVED

EFFECTIVE

ROCKVILLE CITY CODE,

CHAPTER 25

SECTION 1

☐ CONSENT AGENDA

RECOMMENDATION: Adopt ordinance.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

Will continue to allow residents of the single-family dwellings in the Montrose Subdivision to be members of the Rollins Park Apartments swimming pool, as approved in the original special exception of August 4, 1961.

BACKGROUND: In 1961, the developers of the Rollins Park apartments obtained a special exception for a "private, non-commercial swimming pool." As part of the grant of the special exception, the developers were allowed to extend memberships to residents of the adjoining Montrose subdivision single-family homes. As noted in the applicant's letter requesting the text amendment, the definitions in the zoning ordinance were subsequently amended to revise the definitions applying to swimming pools. As a result, when a Use Permit application was made to renovate the pool, it was determined that memberships could no longer be extended to the single-family homes. The text amendment would amend the definition of "Swimming pool, accessory" to provide a new provision allowing such memberships if they had been approved originally by special exception.

Staff finds that the proposed text amendment is narrowly drawn, and would not affect any pools developed subsequent to the change in the definitions. It would retain the use of the pool by the Montrose neighborhood that they have benefited from for 40 years.

The Planning Commission reviewed this text amendment at its meeting on July 14, 2004 and recommended approval. Their recommendation is attached. There was no opposition to the text

amendment at the public hearing. Staff recommends the adoption of the proposed ordinance.

PREPARED BY:

Deane F. Mellander
Deane Mellander, Planner III

9/23/04
Date

APPROVE: Robert J. Spalding
Robert J. Spalding, AICP, Chief of Planning

9.22.4
Date

APPROVE: Arthur D. Chambers
Arthur D. Chambers, AICP, CPDS Director

9/24/04
Date

APPROVE: Catherine Tuck Parrish
Catherine Tuck Parrish, Acting City Manager

9/28/04
Date

LIST OF ATTACHMENTS:

1. Proposed ordinance for adoption.
2. Planning Commission recommendation.

Ordinance No. ____ ORDINANCE: To Grant Text Amendment Application No. TXT2004-00209, Miller, Miller and Canby, attorneys for Congressional Development Corporation, Applicant

WHEREAS, Miller, Miller and Canby, attorneys for Congressional Development Corporation, 200B Monroe Street, Rockville, Maryland 20850, filed Text Amendment Application TXT2004-00209, for the purpose of amending the definition of "swimming pool, accessory" so as to allow an accessory swimming pool in a multi-family development to extend memberships to residents of single-family dwellings if originally approved by special exception; and

WHEREAS, the Mayor and Council of Rockville reviewed the aforesaid application at its meeting of June 14, 2004, and accepted the application for further processing; and

WHEREAS, the Planning Commission reviewed the proposed text amendment application at its July 14, 2004, meeting and recommended approval as set forth in a memorandum dated July 15, 2004; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on July 19, 2004, at 7:00 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on July 19, 2004, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council having considered the text amendment application, and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application in the form set forth below would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2004-00209 be, and the same is hereby, granted in the form set forth below:

SECTION 1. Amend Section 25-1 "Definitions" to amend the the definition of "swimming pool, accessory" to read as follows:

Section 25-1. Definitions

* * *

Swimming pool, accessory means a swimming pool and/or wading pool, including buildings necessary or incidental thereto, conducted as an accessory use:

(1) Maintained and operated by the management of any multi-family development in any multi-family zone or development. A swimming pool, accessory, may provide memberships to persons residing in single-family dwellings if the pool was originally approved under a special exception for a private, non-commercial, community swimming pool for use by residents in a development containing both multi-family and single family residences; or

- (2) * * *
- (3) * * *
- (4) * * *
- (5) * * *

* * *

Note: Underlining indicates material added
Asterisks * * * indicate material unchanged by this ordinance

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of

Claire F. Funkhouser, CMC, City Clerk



City of Rockville

MEMORANDUM

July 15, 2004

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Zoning Text Amendment TXT2004-00209, to amend the definition of "Swimming pool, accessory" to allow residents of the neighboring one-family detached dwellings to be members if originally approved by Special Exception.

At its meeting on July 14, 2004, the Planning Commission considered proposed Zoning Text Amendment No. TXT2004-00209. The applicant operates a swimming pool at the Rollins Park apartments. This pool was installed in 1961 at a time when such pools were defined as "private, non-commercial" community pools. In approving the special exception for the pool, the City Board of Appeals allowed residents of the surrounding one-family residential community to be members of the pool. The definitions for swimming pools were modified in the 1970's. The subject pool was effectively redefined as a "swimming pool, accessory," which permits such pools to be operated only for the benefit of the residents of the multi-family community. Because the provisions of the special exception were still in effect, the pool became a nonconforming use. When the applicants applied in 2003 for permits to renovate the pool, they were informed that they could not obtain a permit unless they came into conformance with the code, which meant they could no longer offer memberships to residents in one-family detached homes. The text amendment would add a provision to the pool definition that would allow the continuation of the membership program as originally approved.

The Commissioners were given a presentation by the staff, and heard testimony from the applicant and citizens.

The Commissioners fully support the proposed text amendment. It restores a neighborhood benefit the Montrose residents have long enjoyed. The amendment is narrowly drawn, and would only apply to cases where a special exception had been granted prior to the change in the definitions.

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The Planning Commission therefore recommends approval of the text amendment on a motion by Commissioner Ostell, seconded by Commissioner Britton, with 6 members voting in favor of the motion and one member absent.

DM

cc: Planning Commission